

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-077-00304R

Parcel No. 220/00494-001-000

**Patrick Fadden,**

Appellant,

**vs.**

**Polk County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 22, 2020. Patrick Fadden was self-represented. Assistant Polk County Attorney Dave Hibbard represented the Board of Review.

Patrick and Lynette Fadden own a residential property located at 1051 SE 60th Street, Pleasant Hill. The property's January 1, 2019 assessment was set at \$448,800, allocated as \$96,900 in land value and \$351,900 in dwelling value. The property receives a Forest Reserve exemption, reducing the total taxable value to \$430,290. (Ex. A).

Fadden petitioned the Board of Review claiming the property's assessment was not equitable as compared with the assessments of other like property, the property was assessed for more than authorized by law, there were errors in the assessment, and an exemption was miscalculated under Iowa Code sections 441.37(1)(a)(1-4). (Ex. C).

The Board of Review found there was an error in the assessment and changed the value to \$421,490, which includes a Forest Reserve exemption. (Ex. B).

Fadden then appealed to PAAB reasserting his claims that there is an error in the assessment and an exemption is still miscalculated. (Appeal)

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–71.126.2(2-4). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. § 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009).

## **Findings of Fact**

The subject property is a one-story home built in 2015. It has 1895 square feet of gross living area, an unfinished walk-out basement, a deck, a patio, and a three-car attached garage. The dwelling is listed as high-quality grade (2+05) and in normal condition. There is also a 40-by-50-foot utility building with an attached 15-by-50-foot lean-to built in 2016. The site is 6.96 acres, with 5.19 acres in Forest Reserve. (Ex. A). 2017 was the first full assessment for the subject property. Fadden appealed the 2017 assessment to PAAB. PAAB affirmed the Polk County Board of Review's action setting the subject property's assessment at \$395,700. *Fadden v. Polk Cnty. Bd. of Review*, PAAB Docket No. 2017-077-00490R (Jan. 9, 2018).

In this appeal, Fadden asserts there are several errors in his assessment that result in his assessment being incorrect including that the lean-to on his utility building has been misidentified and valued and the Forest Reserve exemption on his property is incorrectly calculated and inequitable compared to other properties with full or partial Forest Reserve exemptions. (Ex. 30). Fadden initially also claimed the utility building's

construction type was incorrect. However, at hearing, he acknowledged the utility building's construction type was changed to milled pole, and he no longer was pursuing that claim.

Attached to Fadden's utility building is a 750-square-foot lean-to that spans the length of the building and extends the roofline by fifteen feet. It is held up by approximately five beams and has a dirt floor. (Ex D p. 17). Fadden contends the Assessor miscalculated the cost per square foot of the lean-to at \$8.05 and the correct cost is \$6.44 per square foot. (Exs. 30, 32 & 33). He derived this figure from a table provided to him from the Assessor's Office. Amy Rasmussen, the Chief Deputy Assessor for Polk County, testified the \$8.05 per square foot cost of the lean-to is correct because the price level of \$6.44 was adjusted by 1.25% for Polk County's "manual level" in 2019.

Despite this explanation and reduction in the assessment, Fadden continues to maintain the value of the lean-to is incorrect because its value is now higher than it was when the lean-to was labeled as a covered patio. He asserts his lean-to with a dirt floor should be valued less than a covered patio and therefore must be in error. Fadden challenged the accuracy of the MANUAL and contends neither the Assessor nor the Iowa Department of Revenue have experience valuing outbuilding structures on residential properties. He did not offer any evidence of what the correct pricing for this improvement should be. Rasmussen acknowledged the valuation actually increased by \$438, but indicated she is bound to follow the MANUAL unless the Legislature changes the applicable Code and Rules.

Fadden's claim regarding his Forest Reserve exemption centers on his belief that his exemption is significantly lower than other properties with full or partial forest reserve acres. The subject's total site (6.96 acres) is assessed for \$96,900. Of this, 5.191 acres qualify for a forest reserve exemption. For the January 1, 2019 assessment, Fadden was given a credit of \$18,510. (Ex. A). He does not believe this is accurate.

Fadden requested the equation used by the Assessor's Office to determine the value of the exempt portion of his site and was given a blank form, which he then populated. (Exs. 29-30). His analysis relies on the following formula.

$$\begin{aligned} \text{Total Assessed Land Value} / \text{Total Site Size} &= \text{Assessed Land Value per Acre} \\ \text{Assessed Land Value per Acre} \times \text{Exempt Acres} &= \text{Exempt Land Value} \end{aligned}$$

The following chart summarizes his conclusions for his site, based on his foregoing formula.

Total Assessed Land Value	Total Site Size (Acres)	Assessed Land Value/Acre	Exempt Acres	Fadden's Opinion of Exempt Land Value
\$96,900	6.96	\$13,922	5.19	\$72,257

Fadden's method is flawed, however, because it incorrectly assumes each acre of a site has the same contributory value. This methodology appears to be in direct conflict with Fadden's own testimony. He testified that if his site were split into multiple parts, the sum of those parts would be greater than the value in total. His methodology above is made to have the sum of the parts equal the total value.

Fadden also compiled a listing of several nearby properties ranging in site size from roughly 3 acres to over 28 acres, and that have either a full or partial forest reserve exemption. (Ex. 31). He also submitted the property record cards for the majority of the properties on his list. (Exs. 3-5, 9-10, 12-18, 20-23).

In this analysis, Fadden reported the actual exempt value for each property and divided it by the actual exempt acres as listed on each property record card. (Ex. 31). He noted this analysis indicated there was no uniformity in the exempt values, which ranged from roughly \$7,500 to nearly \$39,000 per acre; with an average exempt acre value of roughly \$12,454. He believes, at a minimum, his exempt acres should be valued at his calculated average exemption value per acre; or \$64,566.<sup>1</sup> (Ex. 30).

We do not find it necessary to replicate his analysis because this method of arriving at an opinion of exempt value is also flawed. Here, Fadden's calculations do not reflect how the exemption values were initially determined. In some instances, his

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<sup>1</sup> 5.19 subject exempt acres X \$12,454 Fadden's calculated average of other exempt acres assessed value.

comparables have as many as 10-acres of non-exempt site area and in other instances the entire site is exempt.

Rasmussen testified her office reviewed the calculations of the exemption prior to the Board of Review hearing and Appraiser Michelle Henderson recommended a reduction in the assessment. However, due to a data entry error the recommended change in the exemption was not carried forward on the Board of Review's decision. (Ex. B). Rasmussen testified the corrected exemption was \$31,800, resulting in a new adjusted land valuation of \$65,100 and a total adjusted valuation of \$399,200. (Ex. F).

Rasmussen explained that typically, especially with larger sites, the majority of site value is associated with the portion of the site needed for the improvements. She referenced the law of diminishing returns, also known as the law of decreasing returns. See THE APPRAISAL OF REAL ESTATE 31-32 (14th ed. 2013); THE DICTIONARY OF REAL ESTATE APPRAISAL 58 & 110-111 (5th ed. 2010). The premise is that additional expenditures beyond a certain point will not yield a return commensurate with the additional investment. "If the site is too large, the value of the surplus land tends to decline at an accelerating rate." THE APPRAISAL OF REAL ESTATE 366.

In an effort to treat all exemptions equally, the Polk County Assessor's Office considers the market value of the whole site, and then determines a market value of the taxable non-exempt portion of the site. The market value of the non-exempt acres would be property specific taking into consideration factors like location. The following formula is then applied.

$$\text{Total Assessed Site Value} - \text{Market Value of non-exempt acres} = \\ \text{Value of exempt acres}$$

In the case of the subject property, the Assessor's Office determined a market value of \$65,100 to the 1.77 non-exempt acres. (Ex. 24). There was no testimony offered explaining how the market value of the non-exempt acres was determined, but based on Rasmussen's testimony one can assume it is based on a property specific

analysis. For this reason, it would not be possible to compare one exempt property to another for side-by-side comparison and expect correlating conclusions.

The value of the subject's recommended exemption is calculated as follows.

$$\begin{aligned} \$96,900 \text{ (Total Site Value)} - \$65,100 \text{ market value of non-exempt acres} = \\ \$31,800 \text{ value of exempt acres} \end{aligned}$$

Fadden was critical of this analysis asserting there is nothing in the Iowa Code stating this is the formula for how an exemption should be determined. He asserts the Iowa Code makes it clear that the "exempt portion of land is exempt." The Board of Review acknowledged his concern and also noted the Iowa Code does not provide a formula for how an exemption should be determined. For consistency and equitability, it has chosen to analyze and value exemptions as presented above.

### **Analysis & Conclusions of Law**

Fadden claims there are errors in the assessment. An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4).

Fadden admits his lean-to is correctly listed, but argues it is incorrectly valued. Rasmussen testified regarding how the lean-to was valued using a value adjusted to the local market. Fadden offered no independent evidence of the lean-to's correct value. Aside from the assessment, a 2017 appraisal of the property is the only evidence of the property as a whole. Indicating a value of \$425,000 for the property in 2017, it offers support for the subject's 2019 total assessment of \$421,490, as determined by the Board of Review. *White v. Bd. of Review of Polk Cnty.*, 244 N.W.2d 765, 769 (Iowa 1976) (in evaluating taxpayer's error claim that assessment included non-existent property, the Court states, "the question should logically remain to be whether the assessments as a whole and as approved by the Board are sustainable."). Considering the evidence in the record, we conclude Fadden has failed to show an error in the property's valuation.

Turning to the Forest Reserve exemption, Fadden argues the exemption for his site is incorrect. The Board of Review acknowledged an error and recommends the exemption be corrected to \$31,800.

Iowa law requires that most property must be valued for assessment based on its market value. Iowa Code § 441.21(1). Exemptions reduce a property's total assessed value proportionate to the value of the exempt property. Iowa Admin. Rule 701-80.54(427); Letter of Findings from Michael L. Cox, Policy Section, Iowa Dept. of Revenue (April 10, 1985) (stating that "If two acres of a forty-acre tract qualify for exemption as a forest reservation, the assessed valuation of the tract of land is reduced by the amount of the value attributed to those acres. . . . [t]he result of the exemption would be to reduce the total valuation of the forty acre tract.").

Even though a portion of Fadden's property may qualify for a property tax exemption under Chapter 427C, the forest reserve acreage must still be valued in a manner consistent with section 441.21 prior to application of the exemption. Iowa Admin. Code R. 701-80.9(5). In essence, Fadden believes each acre has equal value, which is not reflected in the forest reserve exemption. His opinion contradicts commonly accepted valuation methodology. INT'L ASSOC. OF ASSESSING OFFICERS, PROPERTY ASSESSMENT VALUATION 174-87 (3d. ed. 2010). It cannot be said that each unit of comparison (acre or square foot, for example) always contributes equally to a property's value. *Id.* Most importantly, we find he has not offered market value evidence supporting his assertion.

In this case, evidence indicates the Assessor's Office has first valued the non-exempt portion of the site then set the remainder of the site's total assessed value as the value allocated to the exemption. The record reflects that this method is applied to all properties that qualify for forest reserve exemptions. The Board of Review, however, admits that Fadden's exemption should be corrected to reflect a total exempt value of \$31,800 for the 2019 assessment.

Viewing the record as a whole, we conclude the assessment should be modified to reflect the Board of Review's corrected calculation of the Forest Reserve exemption. Fadden has failed to show any other errors in his assessment.


## Order

PAAB HEREBY MODIFIES the Polk County Board of Review's action as set forth herein. The January 1, 2019, assessment shall be set at \$431,000, allocated as \$334,100 in dwelling value and \$96,900 in land value. After adjustment for a \$31,800 Forest Reserve exemption, the adjusted value shall be allocated as \$334,100 in dwelling value and \$65,100 in land value.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).



Elizabeth Goodman, Board Member



Karen Oberman, Board Member



Dennis Loll, Board Member



Copies to:

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